



STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)	
)	
LEONCIO MONTOYA,)	
)	
Complainant,)	
)	
and)	CHARGE NO: 2002SF0403
)	EEOC NO: 21BA21253
STATE OF ILLINOIS DEPARTMENT OF)	ALS NO: S-12158
CORRECTIONS,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

This matter comes to me on review of the file which reveals that Complainant has abandoned his case.

Findings of Fact

The following facts were derived from the record and were not the result of a credibility determination:

1. On February 2, 2002, Complainant filed a charge of discrimination against Respondent with Illinois Department of Human Rights (Department).
2. On August 20, 2003, the Department filed a Complaint of Civil Rights Violation on Complainant's behalf alleging the complainant was aggrieved by practices of age discrimination, prohibited by section 2-102(A) of the Illinois Human Rights Act.
3. On September 19, 2003, Respondent timely filed an answer to the complaint.
4. On January 16, 2004, Complainant's counsel moved to withdraw as Complainant's counsel because he had been unable to locate or contact Complainant for a period of months. Complainant did not respond to the motion.
5. The motion was granted on January 28, 2004 and required Complainant to

file an intent to proceed with his case on or before February 29, 2004.

6. All correspondence mailed to Complainant is returned as “moved left no address” and to date, the Commission has been unable to communicate with Complainant.

7. Complainant has not contacted the Commission or Respondent in over three months and has failed to file the required statement of intent to proceed with his case.

Conclusions of Law

1. Complainant and Respondent are both subject to the Illinois Human Rights Act and to the Jurisdiction of the Illinois Human Rights Commission.

2. A complaint may be dismissed when a party fails to comply with orders, fails to appear for hearings, or otherwise protracts and impedes the prosecution of his or her case.

Determination

The Complaint and underlying Charge of discrimination should be dismissed with prejudice for Complainant’s unreasonable delay and failure to prosecute this matter.

Discussion

The procedural rules of the Illinois Human Rights Commission authorize the Commission to dismiss a case where a complainant fails to comply with orders, fails to appear for hearings, or otherwise protracts and impedes the prosecution of his or her case. *56 Ill. Admin. Code 5300.750(e)*.

In this case it is clear that Complainant has protracted the prosecution of his case. An Order was issued to Complainant seeking confirmation of his intent to proceed with this case. Complainant also received notification in the order that his failure to comply with the order would result in the dismissal of his case without further warning. However, despite an opportunity to apprise the Commission of his intent to prosecute his case and a warning of impending dismissal, Complainant has not contacted the Commission in over three months and the Commission has no way to contact

Complainant. Under these circumstances, it is apparent Complainant has no interest in pursuing his claim against Respondent and that a dismissal is now warranted.

Recommendation

Based on the findings of fact and conclusions of law, I recommend that this Complaint and underlying charge of discrimination be dismissed with prejudice due to Complainant's failure to prosecute his claim.

ILLINOIS HUMAN RIGHTS COMMISSION

KELLI L. GIDCUMB
Administrative Law Judge
Administrative Law Section

ENTERED THIS 14TH DAY OF APRIL, 2004.